

whether civilised as per wall, and to the fore and the party fence walls, and to the number and height of the stories as rooms therein, and to the chimneys, and to the roofs, and to the timber, and to the drains, and to the projections, and to any other parts as appendages of every such building, and to the nature and extent of the materials used in the construction of the same, and to the rule, regulation and directions which are specified and set forth in the several Schedules (C), (D), (E), (F), (G), (H), (I), (J), to this Act enacted, according to the clauses of buildings, and the rules of which shall be observed and followed by every person who shall erect or build any new building, or shall alter or demolish any building, or shall alter or demolish any part thereof, and to the provisions of this Act contained in the same behalf; and subject in every case of doubt, difference or dissimilitude in respect thereof, either between any parties concerned or between any party concerned and the surveyor of the town, to the determination and reference, upon a reference of the matter in dispute, to the provisions of this Act in that behalf.

Buildings under Supervision of Official Referees.

6. And it be enacted, That the rate of the sixth rate of the first or second millage-house class, and to all buildings of the sixth rate of the second or warehouse class, and to all buildings of the third or public buildings class (except the buildings hereinafter excepted), so far as relates to the supervision thereof, that, subject to the provisions in the Schedule (C), and elsewhere in this Act made in respect thereof, every such building shall be built under the special supervision of the official referees, according to the provisions of this Act in that behalf, as well under the ordinary supervision of the surveyors, and that no difference arise as to whether any such building shall be built under the special supervision, or the same shall be determined by the official referees; subject nevertheless to an appeal, at the instance of any party interested, to the Commissioners of Works and Buildings, who decision in the matter shall be final.

Special Supervision of exempted Buildings.

Special provisions of complete exemption.

7. And whereas, by section 60 of the said Act of 1908, certain structures have been exempted from the operation of the Act mentioned in the Schedule (A.) hereto named, for the regulation of buildings and party-walls within the cities of London and Westminster, and the liberties thereof, and other the parishes or places therein contained, and whereas, it appears that the said exemptions were made for the purpose of such exemption it is expedient to repeal such exemptions, and to make provision for such special supervision of work upon buildings as may be required in connection with the carrying out of the same; and whereas, the said buildings heretofore exempted and comprised in Schedule (B.), so far as relates to the supervision thereof, thus, notwithstanding any thing contained to the contrary in any Act or Acts now in force, every such building as so to be subject to special supervision by the official referees, shall nevertheless be subject to the provisions of this Act in that behalf.

Buildings and within Rates.

8. Provided always, and be it enacted, with regard to any building of whatever kind, which is not hereby expressly assigned to any class or rule of a class, so far as relates to the application of this Act thereto, that if any party, person or company erecting any building which does not come within any one of the classes, or of any rule of such classes, then such building shall be built in accordance to such class and rule as shall be directed by the surveyor, subject, as in other cases of doubt, difference or dissimulation, to an appeal to the official referee.

Modification of Building Contracts—Reference to Official Records.

Provisions of Building Contract—agreement that wherever, in any building contract, so far as relates to the provision of any written contract or agreement now in force for erecting or altering such building, other than a contract or agreement in the nature of a building lease, that it shall not be lawful to create such contract otherwise than in conformity with the provisions of this Act; but it shall be lawful for either party, and he is hereby entitled, to alter or vary the same, and to make such alterations and variations as may be necessary, and such alterations shall have come into operation; and such alterations rendered necessary by this Act shall be performed in this Act had been in force when this contract was entered into; and that if the parties thereto shall disagree about the difference of the costs and expenses of the works when performed according to the provisions of this Act, the party who shall be bound to perform the same, or the other, it shall be lawful for either party, and he is hereby entitled, to refer the matter to the surveyor, who shall determine the same, subject to appeal as aforesaid to the official referees; and the award of such official referees shall be final and binding on all the parties, and in all respects as if such award had formed part of the contract; and it shall be lawful for either party, and he is hereby entitled, in such manner and proportion as the surveyor, or, in case of appeal, as the official referees, shall appoint.

Modification of Building Lease.

10. Provided also, and be it enacted, with regard to any building of whatever class, so far as relates to the modification of any lease, or agreement for a lease, being of the nature of a building lease, whereby any person may be bound to erect buildings, that notwithstanding anything herein contained, it shall be the duty of such person, and he is hereby required to erect every building agreed to be built by such lease or agreement, according to the conditions rendered necessary by this Act, in the same or like manner as if this Act had been passed and in operation at the time of making such lease or agreement, without the lessee or tenant being entitled to any compensation, whether by payment of money or reduction of rent as otherwise.

Commissioners of Works and Buildings empowered to modify Rules generally—Report of Official Referee—Extent of Modification—Representation by Parties—Order thereupon—Costs of Application.

Applications.—It is the purpose of prevailing the express provisions of this Act from blinding the adoption of improvements, and of providing for the adoption of expedients better adapted to accomplish the purposes thereof; and it is enacted, with regard to every building, of whatever class, so far as relates to the modification of any rules hereby prescribed, that the official referees, in the exercise of their duties, shall have full power to make such modifications as will defend the objects of this Act, and that by the adoption of any modification of the rules hereby prescribed, its objects will be attained either better or as effectually; it shall be the duty of such official referees to report their opinion thereon, stating the grounds of such their opinion, to the Commissioners of the Land Office, and the said Commissioners shall be authorized to refer such opinions to the said commissioners that such opinions are well founded, then it shall be lawful for the said commissioners or any two of them to direct that such modification may be made as will, in their opinion, give effect to the purposes of this Act; and that if the said Commissioners shall be of opinion that such modification is not well founded, or is not safe or admissible, yet if any party interested present to the official referees a representation, setting forth the grounds wherein such modification is claimed, it shall be the duty of the official referees, and they are hereby required to report such representation, as well as their opinion thereon, to the said commissioners; and if the said commissioners shall be of opinion that such modification is well founded, then it shall be lawful for them or any two of them to direct the official referees to make such order in the matter as may appear to them to be requisite; and that, with regard to such application, so far as relates to the payment of the costs of such application, the said official referees shall have full power to make such order as they shall think proper, and such order relative to the costs of such reference to them, as to the said commissioners shall seem fit.

Power to modify provisions of the Act as to existing Buildings, to be rebuilt

12. And he is covenanted, with regard to buildings already built, so far as to erect the rebuilding thereof in conformity with this Act, in respect of the required area, as in any other respect than the required height and thickness of walls, that if a full compliance with the provisions of this Act be attended by extraordinary expenses, then, subject to the order of the officers referred to, and in the consent of the commissioners of works and buildings, and on such terms as the said commissioners may impose in that behalf, it shall be lawful for the parties concerned to rebuild such buildings on the site of the old buildings as aces as may be practicable, but so that, nevertheless, both the party walls and the external walls be of the required height and thickness.

WILCOX.

Works to be Executed—Notice to Surveyors—201. Penalty for Neglect to give Notice, &c.—201. Penalty for not giving fresh Notice—Penalty for Beginning without Notice, or refusal to admit Surveyor.

13. And if he contract with regard to the works to be executed in pursuance of this Act, so far as relates to the supervision thereof by the surveyors, that two days before the following acts to be done, that is to say, before any building shall be begun to be built; and also, before any addition, alteration with regard to the same shall be begun to be made; and also, before any wall, chimney-stack, or several walls shall be begun to be built, pulled down, rebuilt, set into, or altered; and also before any opening shall be made in any party-wall, and also, before any other matter as aforesaid shall be done by this Act in placed under the supervision of the surveyors; it shall be the duty of the master-builder or other person employed to execute any work, so if there be no master-builder or other person so employed, the time owner of the building or other person for whom the same is to be done, or that is hereby required to give to the surveyor, at his office, a written order or warrant in writing, signed by him, to the effect that he doth so much, and that he doth so, as to the like effect; and that if any builder neglect to give such notice, no begin to build, as aforesaid, in the things aforesaid, before such notice, or before the expiration of such period of two days, then, in every such case, the party offending shall be liable for every such default, and pay to such surveyor the sum of £100 for every such default.

The words, we think, should run—"When" such "contract was entered into."

We think this provision too arbitrary to become part of an English statute; it ought without doubt to be altered so as to be equitable to all parties concerned therein.

We think it possible that much good might arise from the exercise of such a provision, and a few practical effects, such as injuries, would be less than good would be the result; we fear it would tend to the commissioners and official referees being much troubled by applications from interested parties, to render inoperative the wholesome provisions of the Act. If such powers become statutory, we think it should also be enacted that the commissioners shall publish an account of every such case of derivation, and that such will-knowledge or pressure, especially going up and be rightly ordered no directory precedents.

The bad observations apply to this clause.

We apprehend the words are intended in case that:
 "shall for each and every such default forfeit and pay
 to such person."